



BRP WP 59b

DEP Approval of Variance Granted by Board of Health

Instructions and Supporting Materials

Table of Contents

- introduction
- permit fact sheet
- completeness checklist
- DEP addresses and phone numbers

Introduction

DEP *Permit Applications*, as well as *Instructions & Support Materials*, are available for download from the DEP Web site at mass.gov/dep in two file formats: Microsoft Word™ and Adobe Acrobat PDF™. Either format allows documents to be printed.

Instructions & Support Materials files in Microsoft Word™ format contain a series of documents that provide guidance on how to prepare a permit application. Although we recommend that you print out the entire package, you may choose to print specific documents by selecting the appropriate page numbers for printing.

Permit Applications in Microsoft Word™ format must be downloaded separately. Users with Microsoft Word™ 97 or later may complete these forms electronically.

Permitting packages in Adobe Acrobat PDF™ format combine *Permit Applications* and *Instructions & Support Materials* in a single document. Adobe Acrobat PDF™ files may only be viewed and printed without alteration. *Permit Applications* in this format may not be completed electronically.



BRP WP 59b

DEP Approval of Variance Granted by Board of Health Permit Fact Sheet

Note: When completing the DEP Transmittal Form, write the "b" immediately after the space provided for the seven digit character code at the top of the Form.

1. What is the purpose of DEP approval or issuance of a Title 5 variance?

DEP approval or issuance of variances is necessary to ensure, generally, that the applicant has demonstrated that the proposed system for disposal of sanitary sewage can maintain a level of environmental protection at least equivalent to the requirements of Title 5, without strict application of the specific provision(s) from which a variance is sought, and that enforcement of the provision would be manifestly unjust.

This application is for review and approval of Title 5 variance requests only, and does not apply to any local bylaws. BRP WP 59b is to be used for applications in which variance approval by the local approving authority is required prior to submittal to DEP, with the exception of a variance for increased flow to an existing system. BRP WP 59c is to be used for applications for increased flow to an existing system.

You must obtain approval from DEP for these activities:

- Variances granted by the Board of Health pursuant to 310 CMR 15.000, with the exception of those listed in 3210 CMR 15.412(4), for which no DEP approval is required.
- Variance from a provision of Title 5 which only DEP may grant pursuant to 310 CMR 15.414.
- Variance for increased flow to large systems or to systems which, with the increase in flow, will have a design flow of 10,000 - 14,999 gallons per day, pursuant to 310 CMR 15.006 and 15.414.

2. Who must apply?

Anyone proposing to obtain a variance(s) from 310 CMR 15.000, other than for increased flow, a variance listed in 310 CMR 15.412(4), a variance for schools pursuant to 310 CMR 15.416, or a variance from percolation rate pursuant to 310 CMR 15.417, must apply for BRP WP 59b.

Note that anyone proposing to obtain a variance under 310 CMR 15.414 for increased flow to an existing system must use a different form: BRP WP 59c.

If these categories do not apply to you, please be advised these are not the only permit or variance categories for Title 5 on-site sewage disposal systems. Please review the Timely Action Schedule and Fee Provisions, 310 CMR 4.00 and Title 5 of the State Environmental Code, 310 CMR 15.000 to determine whether another category may apply to you.

3. What other requirements should be considered when applying for a variance?

- Variances to Title 5 for schools, reviewed and approved by the Department pursuant to 310 CMR 15.416, require an application under BRP WP 60. Do not use the BRP WP 59b application form for such variance requests.



BRP WP 59b

DEP Approval of Variance Granted by Board of Health Permit Fact Sheet

- Variances for increased flow to a large system or to a system that would result in a design flow of 10,000 gpd or greater do not require prior written approval by the Board of Health under Title 5.

4. What is the application fee?

The application fee is \$230.

5. What is the Primary Permit Location? What is the Reserve Copy Location?

Primary Permit Locations:

Department of Environmental
_____ * Regional Office
Title Permitting Program

*See the list of addresses for DEP Regional Offices.
There are no Reserve Copy Locations for these permits.

6. What are the timelines?

	AC	T1	T2*
BRP WP 59b		N/A	30 30

*(A second technical review will be conducted only if necessary).
There is no public comment review period as part of the Department's application process for these categories.

7. What is the annual compliance fee?

There is no annual compliance fee for this category.

8. How long is the variance in effect?

This approval remains in effect as long as the system and facility served remain unchanged or until the approval is revoked or modified.

9. How can I avoid the most common mistakes made in applying for a variance?

- Review the application for completeness to be sure all questions are answered correctly.
- Make sure the adequate number of copies of plans and specifications are complete and signed and stamped by a Massachusetts Registered Sanitarian or Professional Engineer, whichever is appropriate.
- Attach a copy of the written variance granted by the Board of Health.
- Submit fee and a copy of the DEP Transmittal Form to: Department of Environmental Protection, P. O. Box 4062, Boston, MA 02211.



Massachusetts Department of Environmental Protection
Bureau of Bureau of Resource Protection - Title 5 Permitting

BRP WP 59b

DEP Approval of Variance Granted by Board of Health Permit Fact Sheet

10. What are the regulations that apply to variances? Where can I get copies?

These regulations include, but are not limited to:

- a. Title 5 Regulations, 310 CMR 15.000.
- b. Timely Action Schedule and Fee Provisions, 310 CMR 4.00.

These may be purchased at:

State House Bookstore
Room 116
Boston, MA 02133
617-727-2834

State Bookstore
436 Dwight Street, Room 102
Springfield, MA 01103
413-784-1376

DEP Regulations also may be obtained from DEP's web site at www.mass.gov/dep.



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Title 5 Permitting

BRP WP 59b

DEP Approval of Variance Granted by Board of Health Application Completeness Checklist

To submit a BRP WP 59b Application, complete the steps outlined below:

1. ☐ The DEP Transmittal Form is completed. When completing the Transmittal Form, write the "b" immediately after the space provided for the seven-digit character code at the top of the Form.
2. ☐ A DEP application form has been completed. The following information has been provided:
3. ☐ Name and address of applicant and system/facility owner.
4. ☐ Location (address) of facility and system.
5. ☐ Name, address and telephone number of design engineer or sanitarian.
6. ☐ Two (2) complete sets of plans and specifications (4 for Springfield office filings) have been properly signed and stamped by a Massachusetts Registered Professional Engineer or Massachusetts Registered Sanitarian, whichever is appropriate.
7. ☐ A copy of a signed letter from the Board of Health granting the requested variance(s), if applicable.
8. ☐ Copy and proof of notification to abutters if required by 310 CMR 15.411 is included.

To submit the application package:

- ☐ Checklist items have been completed.
- ☐ Send two (2) copies of the application along with the *original* DEP Transmittal Form to:

Department of Environmental Protection
_____ * Regional Office
Title 5 Permitting Program
*See list of addresses for DEP Regional Offices.
- ☐ Send fee of \$230 in the form of a check or money order made payable to *Commonwealth of Massachusetts*, along with a **copy** of the DEP Transmittal Form to:

Department of Environmental Protection
P.O. Box 4062
Boston, MA 02211



Massachusetts Department of Environmental Protection

Addresses and Phone Numbers

DEP Boston
One Winter Street
Boston, MA 02108
Telephone: (617) 292-5500
Fax: (617) 556-1049
TDD: (617) 574-6868

William X. Wall Experiment Station
37 Shattuck Street
Lawrence, MA 01843
Fax: (978) 688-0352
Division of Environmental Analysis
Telephone: (978) 682-5237
Air Quality Surveillance
Telephone: (978) 975-1138

Office of Watershed
Management
627 Main Street
Worcester, MA 01608
Telephone: (508) 792-7470
Fax: (508) 839-3469

DEP Western Region
436 Dwight Street
Suite 402
Springfield, MA 01103
Phone: (413) 784-1100
Fax: (413) 784-1149



Adams
Agawam
Alford
Amherst
Ashfield
Becket
Belchertown
Bernardston
Blandford
Brimfield
Buckland
Charlemont
Cheshire
Chester
Chesterfield
Chicopee
Clarksburg

Colrain
Conway
Cummington
Dalton
Deerfield
Easthampton
East Longmeadow
Egremont
Erving
Florida
Gill
Goshen
Granby
Granville
Great Barrington
Greenfield
Hadley

Hampden
Hancock
Hatfield
Hawley
Heath
Hinsdale
Holland
Holyoke
Huntington
Lanesborough
Lee
Lenox
Leverett
Leyden
Longmeadow
Ludlow
Middlefield

Monroe
Montague
Monterey
Montgomery
Monson
Mount Washington
New Ashford
New Marlborough
New Salem
North Adams
Northampton
Northfield
Orange
Otis
Palmer
Pelham
Peru

Pittsfield
Plainfield
Richmond
Rowe
Russell
Sandisfield
Savoy
Sheffield
Shelburne
Shutesbury
Southampton
South Hadley
Southwick
Springfield
Stockbridge
Sunderland
Tolland

Tyringham
Wales
Ware
Warwick
Washington
Wendell
Westfield
Westhampton
West Springfield
West Stockbridge
Whately
Wilbraham
Williamstown
Windsor
Worthington

DEP Central Region
627 Main Street
Worcester, MA 01608
Phone: (508) 792-7650
Fax: (508) 792-7621
TDD: (508) 767-2788



Acton
Ashburnham
Ashby
Athol
Auburn
Ayer
Barre
Bellingham
Berlin
Blackstone
Bolton
Boxborough
Boylston
Brookfield

Charlton
Clinton
Douglas
Dudley
Dunstable
East Brookfield
Fitchburg
Gardner
Grafton
Groton
Harvard
Hardwick
Holden
Hopedale

Hopkinton
Hubbardston
Hudson
Holliston
Lancaster
Leicester
Leominster
Littleton
Lunenburg
Marlborough
Maynard
Medway
Mendon
Milford

Millbury
Millville
New Braintree
Northborough
Northbridge
North Brookfield
Oakham
Oxford
Paxton
Pepperell
Petersham
Phillipston
Princeton
Royalston

Rutland
Shirley
Shrewsbury
Southborough
Southbridge
Spencer
Sterling
Stow
Sturbridge
Sutton
Templeton
Townsend
Tyngsborough
Upton

Uxbridge
Warren
Webster
Westborough
West Boylston
West Brookfield
Westford
Westminster
Winchendon
Worcester

DEP Southeast Region
20 Riverside Drive
Lakeville, MA 02347
Phone: (508) 946-2700
Fax: (508) 947-6557
TDD: (508) 946-2795



Abington
Acushnet
Attleboro
Avon
Barnstable
Berkley
Bourne
Brewster
Bridgewater
Brockton
Carver
Chatham
Chilmark

Dartmouth
Dennis
Dighton
Duxbury
Eastham
East Bridgewater
Easton
Edgartown
Fairhaven
Fall River
Falmouth
Foxborough
Franklin

Freetown
Gay Head
Gosnold
Halifax
Hanover
Hanson
Harwich
Kingston
Lakeville
Mansfield
Marion
Marshfield
Mashpee

Mattapoisett
Middleborough
Nantucket
New Bedford
North Attleborough
Norton
Norwell
Oak Bluffs
Orleans
Pembroke
Plainville
Plymouth
Plympton

Provincetown
Raynham
Rehoboth
Rochester
Rockland
Sandwich
Scituate
Seekonk
Sharon
Somerset
Stoughton
Swansea
Taunton

Tisbury
Truro
Wareham
Wellfleet
West Bridgewater
Westport
West Tisbury
Whitman
Wrentham
Yarmouth

DEP Northeast Region
One Winter Street
Boston, MA 02108
Telephone: (617) 654-6500
Fax: (617) 556-1049
TDD: (617) 574-6868



Amesbury
Andover
Arlington
Ashland
Bedford
Belmont
Beverly
Billerica
Boston
Boxford
Braintree
Brookline
Burlington
Cambridge
Canton
Carlsle

Chelmsford
Chelsea
Cohasset
Concord
Danvers
Dedham
Dover
Dracut
Essex
Everett
Framingham
Georgetown
Gloucester
Groveland
Hamilton
Haverhill

Hingham
Holbrook
Hull
Ipswich
Lawrence
Lexington
Lincoln
Lowell
Lynn
Lynnfield
Malden
Manchester-By-The-Sea
Marblehead
Medfield
Medford
Melrose

Merrimac
Methuen
Middleton
Millis
Milton
Nahant
Natick
Needham
Newbury
Newburyport
Newton
Norfolk
North Andover
North Reading
Norwood
Peabody

Quincy
Randolph
Reading
Revere
Rockport
Rowley
Salem
Salisbury
Saugus
Sherborn
Somerville
Stoneham
Sudbury
Swampscott
Tewksbury
Topsfield

Wakefield
Walpole
Waltham
Watertown
Wayland
Wellesley
Wenham
West Newbury
Weston
Westwood
Weymouth
Wilmington
Winchester
Winthrop
Woburn



BRP WP 59b

DEP Approval of Variance Granted by Board of Health

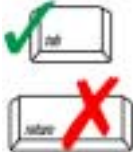
Please read the Instructions and Supporting Materials before filling out this form.

This permit application is necessary for all variances granted by Board of Health, except variances for increased flow to existing systems.

A. General Information

Important:

When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.



1. Applicant:

Name

Street Address

City/Town

State

Zip Code

Telephone

2. Facility/Proposed System Address (if different from Applicant):

Address

City/Town

State

Zip Code

3. System Designer Information (Registered Sanitarian (RS) or Professional Engineer (PE) for systems under 2,000 gallons per day; PE for systems 2,000 gallons or more per day):

Name

Name of Company

Address

City/Town

State

Zip Code

Telephone

4. Registration:

Massachusetts Registered P.E.

Massachusetts Registered Sanitarian

Registration Number



BRP WP 59b

DEP Approval of Variance Granted by Board of Health

A. General Information (cont.)

5. Is the proposed system part of a project requiring a filing under 301 CMR 11.00, the Massachusetts Environmental Policy Act? ☐ Yes ☐ No

If yes, has a filing been made? ☐ Yes ☐ No

If yes, EOE File #

6. The legal entity that owns or will own this facility is:

- ☐ Individual ☐ Municipality ☐ Private Partnership
☐ Federal ☐ State/Country ☐ Corporation
☐ Other

Specify

Name

Address

Telephone

7. Two complete sets of plans and specifications, (four for submittals to the Springfield Office), including a locus map, properly stamped and signed by a Massachusetts Registered Professional Engineer or Massachusetts Registered Sanitarian, must accompany the application.

Are plans and specifications attached? ☐ Yes ☐ No

8. ☐ Variance(s) from the following Title 5 provision(s) is/are being sought:

9. A letter of approval for the variance, issued by the Board of Health having jurisdiction over the system, must be attached.

Is the approval letter attached? ☐ Yes ☐ No



BRP WP 59b

DEP Approval of Variance Granted by Board of Health

A. General Information (cont.)

10. If applying for approval of a variance that requires notification of abutters under 310 CMR 15.411, a copy of the notification sent to the abutters and proof of notice must accompany this application.

Is a copy and proof of the notification attached? ☐ Yes ☐ No

11. In accordance with 310 CMR 15.410, the applicant must establish that the strict enforcement of the provision of the Code for which the variance is being sought would be manifestly unjust and that a level of environmental protection that is at least equivalent to that provided under the Code can be achieved without strict application of the particular provision.

Is documentation in support of meeting these requirements attached?

☐ Yes ☐ No

You must complete the following:

- a) I have established that enforcement of the provision from which a variance is sought would be manifestly unjust, considering all of the relevant facts and circumstance of this case, as follows (attach additional sheets if necessary):

- b) I have established that a level of environmental protection that is at least equivalent to that provided under 310 CMR 15.000 can be achieved without strict application of the provision(s) from which I am seeking a variance, as follows (attach additional sheets if necessary):



BRP WP 59b

DEP Approval of Variance Granted by Board of Health

A. General Information (cont.)

12. Is the variance requested for new construction as "new construction" is defined in 310 CMR 15.002?

☐ Yes ☐ No

If yes, you must complete the following:

I have established that enforcement of the provision from which a variance is sought would deprive me of substantially all beneficial use of the subject property as follows (attach additional

13. Is a copy of the complete application that was submitted to the Board of Health attached?

☐ Yes ☐ No

B. Certification

"I certify under penalty of law that this document and all attachments, to the best of my knowledge and belief, are true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Applicant's signature

Print Name

Name of Preparer

Date



BRP WP 59b

DEP Approval of Variance Granted by Board of Health

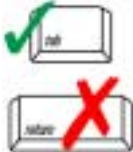
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BRP WP 59b

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BRP WP 59b

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Name of Preparer

Date